

Spearman, Gina v. Broker Solutions, Inc. Et Al

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GINA SPEARMAN,

Plaintiff,

vs.

Case No. 1:20-cv-04981-CAP

BROKER SOLUTIONS, INC.,

d/b/a NEW AMERICAN FUNDING,

Defendant.

REMOTE VIDEOCONFERENCE DEPOSITION

of

JON REED

January 28, 2022

2:15 p.m.

Lucy C. Rateau, RPR, CCR

INDEX OF EXHIBITS

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(No exhibits marked)

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1 APPEARANCES OF COUNSEL (via Zoom videoconference):

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3 On behalf of the Plaintiff:

4 TRAVIS C. HARGROVE, ESQ.

5 MARYBETH GIBSON, ESQ.

6 The Finley Firm, PC

7 3535 Piedmont Road, NE

8 Suite 230

9 Atlanta, GA 30305

10 thargrove@thefinleyfirm.com

11 mgibson@thefinleyfirm.com
12

13 On behalf of the Defendant:

14 HENRY M. PERLOWSKI, ESQ.

15 T. CHASE OGLETREE, ESQ.

16 Arnall Golden Gregory, LLP

17 171 17th Street, NW, Suite 2100

18 Atlanta, GA 30363

19 404.873.8500

20 henry.perlowski@ogg.com

21 chase.ogletree@ogg.com
22

23 Also Present Remotely:

24 Andrew Westle, Esq.

25 Gina Spearman

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(All counsel stipulated to the remote
swearing in of the witness due to the COVID-19
pandemic.)

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1 JON REED

2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MS. GIBSON:

6 Q. Good morning, Mr. Reed.

7 A. Good morning.

8 Q. I'm MaryBeth Gibson, and I represent Gina
9 Spearman in litigation against NAF over a contract
10 that she had with NAF. Can you hear me okay?

11 A. Yes, I can. Can you hear me okay?

12 Q. Yes. I just have a message on my screen.
13 I didn't know what that was.

14 I want to go over some ground rules for the
15 deposition. We are doing this by Zoom. Did you
16 receive the subpoena that was sent to your
17 residence?

18 A. I did. Thank you.

19 Q. The court reporter is going to take down
20 everything that we say today, so it's important that
21 you give verbal responses and not head nods.

22 I'm going to be asking some background
23 questions and I'm going to ask you some questions
24 about NAF and your employment and Ms. Spearman's
25 employment while you were there.

1 If at anytime you don't understand a
2 question or you need me to repeat it, please just
3 let me know and I'm happy to do that.

4 A. I'll do that.

5 Q. And I'll try not to speak over you so she
6 can get complete responses on the record.

7 And then you have the opportunity to read
8 your transcript and sign it, make sure everything is
9 correct. Would you like to do that?

10 A. Yes, please.

11 Q. So we'll be sure and get your address to
12 the court reporter so she can send it to you.

13 If at anytime you need a break, just let me
14 know and we can take a break. If there is a
15 question on the table I just ask that you answer it
16 and then we can take a break, okay?

17 A. Sounds good.

18 Q. Can you state your full name for the
19 record?

20 A. Jon Reed, J-O-N, Reed, R-E-E-D.

21 Q. And what is your current residence?

22 [REDACTED]
23 [REDACTED]

24 Q. Do you have any military experience?

25 A. No.

1 Q. Do you have any relatives that live in
2 Fulton County, Georgia?

3 A. No.

4 Q. Have you ever lived in the Atlanta area?

5 A. Not for a permanent residence. I had an
6 office there for a while.

7 Q. When you had an office here what company
8 was that with?

9 A. The company that I owned, CMP Mortgage. I
10 had the office there probably back in 1994, '95,
11 somewhere in there.

12 Q. But at that time you did not have a
13 residence in Atlanta?

14 A. I did not.

15 Q. Are you married?

16 A. Yes.

17 Q. And what is your wife's name?

18 A. Katherine with a K, K-A-T-H-E-R-I-N-E, same
19 last name.

20 Q. Do you have any children?

21 A. I do. Three.

22 Q. What are their names?

23 A. Angela, Kamie, K-A-M-I-E and Jon.

24 Q. And do any of your children live in the
25 Atlanta area?

1 A. No.

2 Q. Are you a member of any civic
3 organizations?

4 A. Not right now.

5 Q. Have you ever given your deposition before?

6 A. Yes.

7 Q. And can you tell me the instances in which
8 you've done that?

9 A. I gave depositions while employed at New
10 American Funding. I gave depositions at times when
11 I owned my own mortgage brokerage company. I think
12 those were the only two circumstances.

13 Q. In this deposition if I refer to American
14 Funding as NAF, you'll know that I'm referring to
15 New American Funding, that's okay?

16 A. That's okay, yes.

17 Q. When you gave a deposition for NAF, what
18 was that litigation about?

19 A. Employment.

20 Q. And when you say "employment", what
21 specifically?

22 A. They were being sued over employees that I
23 had hired in Colorado. So the deposition really
24 wasn't -- wasn't accusing me of doing anything, it
25 was accusing the individuals within that I hired in

1 Colorado for -- what's the word I'm looking for...
2 breaching their non-solicit agreement.

3 Q. So NAF had sued the individuals you had
4 hired?

5 A. No. NAF was being sued and the individuals
6 were being sued.

7 Q. And do you know what the result of that
8 litigation was?

9 A. I believe it settled. It was for the most
10 part I would say that NAF -- NAF probably settled,
11 but I think we won the deal.

12 Q. And when approximately was that deposition?

13 A. Probably 2013.

14 Q. And I need to ask you, are you on any
15 medications today that would affect your memory and
16 your ability to testify?

17 A. No, I'm not.

18 Q. When did you join NAF?

19 A. October of 2012.

20 Q. How did you come to join NAF?

21 A. I actually answered an ad that they had in
22 a publication. And the ad did not reference the
23 name of the company, just that a company in southern
24 Colorado was looking to fill some managerial
25 positions. So I applied to the ad and did an

1 interview a couple of weeks after that and was
2 hired.

3 Q. And you said it was advertised as a company
4 in southern Colorado?

5 A. I'm sorry. Southern California.

6 Q. California, okay. And did you travel to
7 California to interview for the position?

8 A. I did.

9 Q. Who did you meet with?

10 A. Patty Arvielo.

11 Q. Anyone else?

12 A. I met with Christy Bunce as well.

13 Q. And when you were hired what was your role
14 -- what was your title when you were hired?

15 A. The original title was Regional Manager and
16 it was -- the job description was to begin to build
17 retail mortgage offices outside of California.

18 Q. So when you were -- when approximately were
19 you hired by NAF?

20 A. It was October of 2012.

21 Q. And when you were hired did NAF not have a
22 presence outside of southern California?

23 A. They did not. The only -- I'll qualify
24 that. They had business opportunities outside of
25 California through their Call Center. But through

1 their Retail offices, they didn't have any offices
2 outside of southern California.

3 Q. And did you, after being hired by NAF, did
4 you move to southern California or did you move --

5 A. I was actually living in southern
6 California when I interviewed with them. I was
7 working for Bank of America at that time and living
8 in Santa Monica.

9 Q. When you said when you were hired by NAF
10 your role was -- your title was Regional Manager; is
11 that correct?

12 A. Correct.

13 Q. And how has that changed during the time
14 you were employed with NAF?

15 A. The fall of -- I believe it was 2014 it was
16 changed to Divisional Manager. I had opened up --
17 hired and opened up several markets, so it was
18 changed to divisional. It might have been changed
19 to Divisional Manager actually a little earlier. I
20 was then later called to California to meet with
21 Christy and they changed my title to Executive --
22 Executive Manager position in charge of Business
23 Development. So pretty much managing and running
24 Retail with the growth across the U.S.

25 Q. And how had NAF grown after you were hired

1 by NAF?

2 A. Quite a bit. Most of it was all organic
3 growth. We only had one acquisition that was a true
4 acquisition, and that was a group up in the
5 Minnesota area. We acquired that company I believe
6 in either late 2018, early 2019. The rest of it was
7 all organic growth, just -- I've been in the
8 business a long time, so hiring managers that had
9 worked for me either in previous companies or just
10 managers I came in contact with. Probably the
11 largest group that we had added that was still
12 considered an organic add would have been Kelly and
13 Gina's group in the Southeast.

14 Q. And I'm going to come back to that. But
15 when did you leave NAF?

16 A. Late January, early February of 2020.

17 Q. And where are you employed now?

18 A. Security National Mortgage Company.

19 Q. And did you go to Security after leaving
20 NAF?

21 A. Through an interview process. I was
22 fortunate I had probably 10 or 12 companies that had
23 contacted me, interested in hiring me for a variety
24 of different roles. I elected and accepted a
25 position with Security National on the 6th of April

1 in 2020. I went to work for them on the 6th.

2 Q. I believe you just were testifying about
3 hiring Kelly Allison and Gina Spearman. Were you
4 involved in that process?

5 A. Yes.

6 Q. Tell me about that process.

7 A. We had several meetings with their team and
8 a portion of their team. Probably started in early
9 2017, probably late spring, I would say April, May.
10 Face-to-face meetings, phone meetings that continued
11 to transpire, a lot of different things to work
12 through, if it was going to work out between the two
13 entities. I think a portion of their team started
14 to join late in the fourth quarter of 2017 with a
15 few more, and the entire team probably rolling in
16 very early in 2018.

17 Q. So if Ms. Spearman actually signed her
18 contract with NAF in November of 2016, do you think
19 it would have been in the spring of 2016 that you
20 met with Ms. Allison and Ms. Spearman?

21 A. That was probably correct. I could be off
22 a year.

23 Q. No problem. So you were involved -- were
24 you involved in negotiating Ms. Spearman's and Ms.
25 Allison's compensation, or was that left to (audio

1 drop)?

2 A. I worked with them a lot on how the
3 compensation would be broken down and how they pay
4 their people. The way the compensation laid out at
5 that time, they received a total amount of
6 commission that was given to the girls. They would
7 pay loan officers and branch managers down below
8 them at different rates and then the spread
9 difference between what they were paying to their
10 people and what their compensation was set at, that
11 spread or difference was paid to them in management
12 overrides.

13 Q. And we'll come back to their contracts in a
14 bit. But in your role, when you left NAF what was
15 your title when you left NAF?

16 A. I was in charge of Retail lending. Most
17 everything -- I divided up the -- the job title was
18 divided up pretty much between myself and a lady by
19 the name of Jan Preslo. I probably dealt a lot more
20 with pricing, hiring, support to the different
21 regionals on down to some branch managers, but
22 mostly to regionals, really mostly on pricing, loan
23 structure, for whatever they would need in that
24 area, and recruiting services. Jan handled more of
25 the actual working with legal on the contracts and

1 stuff like that.

2 Q. Did Ms. Spearman and Ms Allison report to
3 you?

4 A. To myself and to Jan.

5 Q. And in your role as Executive Manager would
6 you review the P and Ls for NAF?

7 A. Every month.

8 Q. And would you have reviewed them in 2018?

9 A. In 2018, yes.

10 Q. And who prepared the P and Ls?

11 A. Prepared by a team that worked under Jason
12 O'Bradovich.

13 Q. And tell me the process, when you say you
14 reviewed them every month, the process of what you
15 would do when you reviewed them.

16 A. Well, I would review the entire P and L for
17 corporate allocations, everything that would have to
18 do with revenue and expenses.

19 Q. And was this the P and L for the entire
20 company or was it a P and L for the Retail Division?

21 A. Just the Retail Division.

22 Q. And so you testified that you reviewed the
23 P and Ls for 2018 for the Retail Division; is that
24 correct?

25 A. That's correct.

1 Q. And was the Retail Division in 2018
2 considered profitable based on your review of the
3 P and Ls?

4 A. Based on the review and through the P and
5 Ls that were given to us up through the end of
6 December of 2018, yes.

7 Q. And specifically was the southeastern
8 region profitable?

9 A. Yes.

10 Q. And did these P and Ls show the expenses
11 incurred by the southeast region?

12 A. Yes.

13 Q. Did you review P and Ls in early January
14 2019?

15 A. Yes, I did.

16 Q. What did those show?

17 A. That 2018 had a loss.

18 Q. And what was the amount of the loss?

19 A. Somewhat from memory, but it was extensive.
20 We went from what we believed to be a 15 million
21 dollar profit to -- I think it was close to 25
22 million dollar loss.

23 Q. And after you received this P and L in
24 January 2019, what did you do?

25 A. Well, we had quite a few meetings. There

1 was a portion of the expense category for corporate
2 margins. There were two categories for corporate
3 margin, what they called Corporate Margin 1 and
4 Corporate Margin 2. And apparently what had
5 happened is Corporate Margin 2 never got included
6 into the P and Ls, so once it was added that created
7 a substantial loss.

8 Q. When you say we had a number of meetings,
9 who attended those meetings?

10 A. We had meetings with Jason O'Bradovich,
11 Rick Avielo, Patty Arvielo periodically, Christy
12 Bunce and Jan Preslo.

13 Q. Were these meetings in January of 2019?

14 A. Yes.

15 Q. And so you discussed, if I understand your
16 testimony, that CM2, which was corporate expenses,
17 were not included in the P and Ls which resulted in
18 them changing to a 25 million dollar loss. What did
19 you all discuss in this meeting how to move forward?

20 MR. PERLOWSKI: Object to the form;

21 foundation. You can answer, Mr. Reed.

22 A. There was a lot of discussion on how the
23 P and Ls would be changed to make sure that we
24 accommodated the full expense. So the corporate
25 allocation number was kind of a moving target which

1 required a lot of different meetings, and that
2 number continued to evolve probably over four or
3 five meetings, but it was all centered around
4 getting to what they believe to be the correct
5 corporate allocation.

6 Q. And tell me again who prepared the P and Ls
7 for Outside Retail?

8 A. It reported under Jason O'Bradovich. He
9 had a team that worked for him that was probably
10 three or four people on the team that worked to help
11 prepare the P and Ls.

12 Q. What was Mr. O'Bradovich title?

13 A. At that time he was head of Capital
14 Markets.

15 Q. How is Capital Markets related to Outside
16 Retail?

17 A. Capital Markets would really set the --
18 they're involved with setting price, they're
19 involved with hedging the loans, servicing. They
20 wouldn't be directly managing servicing, but they
21 would be involved with everything that had to do
22 with the economics of the loan, different things
23 that create revenue inside the loan, fee income, and
24 the hedging of the files. Everything comes through
25 Capital Markets.

1 Q. Would it be unusual for Capital Markets to
2 be doing the P and L for Outside Retail?

3 MR. PERLOWSKI: Object to the form.

4 Q. You may answer. And I should have told you
5 Mr. Perlowski may object throughout the deposition,
6 but he's just protecting the record and you can
7 always respond.

8 A. I understand. It is unusual to have
9 somebody that is the head of Capital Markets also
10 being the CFO for the company.

11 Q. Was Mr. O'Bradovich the CFO at that time?

12 A. No.

13 Q. He was just preparing the P and Ls for
14 Outside Retail at that time?

15 A. Correct. They did not have an actual CFO
16 at that time.

17 Q. Were you surprised to see the loss reported
18 in the January 2019 P and L?

19 MR. PERLOWSKI: Object to the form. You
20 can answer sir.

21 A. Yes, very surprised.

22 Q. Why?

23 A. We reviewed P and Ls monthly throughout the
24 entire year just like we did every year. So nothing
25 on any of the monthly P and Ls ever illustrated any

1 type of a loss or even a category for what became
2 the Margin 2. So it's very surprising. It wasn't
3 like we just got a P and L at the end of the year.
4 These were monthly reviews of the P and L, and you
5 could see the profitability or loss for all of the
6 regions that were within Retail and of course the
7 entire P and L for Retail.

8 Q. And in your tenure at NAF did you review
9 the P and Ls on a monthly basis each year you were
10 there?

11 A. Probably from 2015 on.

12 Q. So do you have experience reading the P and
13 Ls?

14 A. Oh, yes. Yes, I do.

15 Q. And when you would meet -- I believe you
16 said you would review them monthly. Would you
17 review them with a team?

18 A. I would review them and then I would review
19 with Jan Preslo. And we would probably get -- I
20 normally get the P and Ls probably about a day or
21 two and then we would meet with the entire -- I
22 would meet with Christy and Jan and Jason, at least
23 one person from Jason's team and myself. That would
24 be the general review. Periodically Rick would join
25 the meetings, but most of the time it was with that

1 group.

2 Q. So you would do that each month after
3 receiving a P and L throughout 2018?

4 A. Correct.

5 Q. And each month that you looked at those P
6 and Ls were the expenses for each of the regions in
7 Outside Retail included in those P and Ls?

8 A. They were.

9 Q. And I believe you explained that in January
10 of 2019 -- I may ask you to explain this again --
11 what is the CM bucket that changed the P and L to a
12 loss?

13 MR. PERLOWSKI: Object to the form. You
14 can answer, sir.

15 A. It was just -- as I mentioned earlier,
16 there was Corporate Margin 1 and Corporate Margin 2
17 which encompassed a lot of different things with
18 expenses that would be attributed to running the
19 enterprise. So I think as we moved into 2019 that
20 was consolidated into one corporate margin. But for
21 some reason they had it divided in Corporate
22 Margin 1 and Corporate Margin 2, and Corporate
23 Margin 2 was never present as we reviewed any of the
24 P and Ls in 2018.

25 Q. And after the group reviewed the 2019 --

1 the January 2019 P and L which showed this loss,
2 what was the general reaction?

3 MR. PERLOWSKI: Object to the form.

4 Speculation. You can answer, sir.

5 A. Well, there was a lot of concern and
6 confusion for all of the regionals at that period of
7 time because you think your region is profitable and
8 then find out that it might not be profitable, that
9 creates a lot of concern, a lot of concern for
10 everything you could imagine, the existence of the
11 company, the continuance of everything. We worked
12 through a lot of that. But there was general
13 concern with all of the regionals that reported to
14 me.

15 Q. And was there -- when you met with Jan and
16 I think you said Jan, Patty, Jason O'Bradovich and
17 Christy in January 2019 after reviewing that new
18 P and L, what was their reaction to this
19 information?

20 MR. PERLOWSKI: Object to the form;

21 mischaracterizes his testimony. You can
22 answer, sir.

23 A. There was a lot of concern. I mean
24 obviously concern for all of us on how -- on getting
25 everything done correct, right sizing, figuring how

1 we were going to move forward. There was general
2 concern as to why the numbers weren't in there all
3 along. That's the thing that was disturbing in
4 particular to Jan and I was we weren't preparing the
5 P and Ls so why was it not in there.

6 Q. Did Jan express concern to you about that?

7 A. Over and over again.

8 Q. And did leadership come up with a solution
9 as how to move forward after reviewing those January
10 2019 P and Ls?

11 A. Yes, they did. The belief at that point in
12 time was that they really wanted to put the regions
13 on a regional P and L versus the structure that they
14 were currently on, which was a basis point plan.
15 And they did hire a CFO that came in from another
16 company, and it was his job to help create a P and L
17 and for the regionals to be able to manage their
18 region. And there was two or three variations in
19 the beginning stages that the regionals could select
20 depending on how they wanted to manage their region,
21 either heavily centered on a pure P and L type
22 system or a heavily weighted P and L. I guess I
23 shouldn't say purely P and L, but a heavily weighted
24 P and L to one that might be partial profit related
25 and some basis point component. So all of that

1 continued to be reviewed as we went through the
2 first quarter.

3 Q. Did you participate in a leadership meeting
4 in February of 2019?

5 A. Yes.

6 Q. Who attended that meeting?

7 A. All the regionals, Christy, Jason
8 O'Bradovich I believe was in there, Rick Arvielo of
9 course, Patty Arvielo, Jan and I, and I believe Sam
10 was in that meeting. That was probably about all of
11 it.

12 Q. Who is Sam?

13 A. Sam Elsworth is -- he was -- he worked
14 primarily for assisting in recruiting and support.
15 He wasn't really in the P and L review meetings, but
16 I believe he was a part of that management -- he
17 would always attend the regional management meetings
18 but didn't have direct review of the P and Ls. I
19 would review them with him later, but he wasn't a
20 part of the review process.

21 Q. What was the format of this leadership
22 meeting?

23 A. Well, it was basically to let them know
24 that 2018 was not a profitable year, that there was
25 -- that there was loss involved. I don't remember

1 if a clear number was given or not, but that the
2 company did not generate a profit. I think they had
3 Jason kind of present some of the numbers that had
4 to do with the gain or loss of 2018, and that they
5 were going to introduce or begin to work on a plan
6 to switch to a more P and L plan. I know that there
7 toward the very end of the meeting I can remember
8 sitting with one of the regionals, the regional out
9 of Missouri kind of made a flip comment, which was
10 not abnormal to him, but kind of made a flip
11 comment, that gee, then I guess we get to
12 participate in all the upside now. And I know it
13 did aggravate Rick at that time because Rick turned
14 around as he was leaving the room and said, "I'm
15 assuming all of you are happy with what you made
16 last year. I'm the only one that is not."

17 Q. Did Rick speak at the meeting?

18 A. Oh, yes.

19 Q. What did he say?

20 A. Just that -- he's always very articulate.
21 He did a good job. He presented the fact that we
22 needed to make adjustments to the compensation plan,
23 that we needed to look more to a P and L. And for a
24 lot of the regionals that were in the room, many of
25 them had worked under a P and L format with other

1 companies that they were with, so the idea of a
2 P and L wasn't necessarily considered negative. It
3 would depend on how the P and L would be structured
4 for managing their expense, risk to them,
5 compensation benefits. There's a lot of varieties
6 of profit and loss statements out there.

7 Q. Did anyone announce a 25 million dollar
8 misallocation at the meeting?

9 A. I don't remember.

10 MR. PERLOWSKI: Object to the form;
11 foundation. You can answer.

12 A. I don't remember if the exact number came
13 out. I know that it was mentioned that there was a
14 substantial loss. And they may have. I just don't
15 remember if it was -- if that was the actual number
16 that was given or not. But it was -- there was --
17 it could have been. But it was sizeable. I just
18 don't remember if it was an exact number.

19 Q. Who made the announcement that there was a
20 sizeable --

21 MR. PERLOWSKI: Object to the form;
22 foundation; mischaracterizes testimony. Mr.
23 Reed, you can answer.

24 A. I believe Jason O'Bradovich went through
25 the numbers, and then Rick talked about the fact

1 that there was clearly loss in 2018 and we needed to
2 adjust things so that regionals managing these
3 regions -- the regions were fairly large at that
4 time -- that there was ownership and partnership in
5 the way that would be managed and change for all of
6 us.

7 Q. Did he use the word "misallocation" ever?

8 MR. PERLOWSKI: Object to the form.

9 BY MS. GIBSON:

10 Q. You can answer.

11 A. No. It was never ever really determined
12 that -- nothing was really ever pushed out that it
13 was Jason's mistake or fault. Rick took ownership
14 for the fact that the numbers were not correct, as
15 he should have done as the owner. But, nonetheless,
16 the numbers proved to be a loss that none of us
17 understood or realized as we moved through 2018.

18 Q. Did you believe 2018 to be a profitable
19 year?

20 A. 15 million profitable.

21 Q. So you understood it to be 15 million
22 dollars profitable based on the P and Ls you
23 reviewed at the end of 2018?

24 A. And throughout the year. So there was
25 nothing about 2018 that would have shown that we

1 lost money on any of the P and L reviews. I think
2 anybody that was in the industry at that time,
3 looking back on the industry, would understand and
4 agree that the last four months of 2018 was
5 problematic to the mortgage industry in general, but
6 2018 for the full year was a good year.

7 Q. Did Patty Arvielo speak at the meeting?

8 A. I don't remember if she did. Normally she
9 weighs in and has some communication. I don't
10 remember. I don't remember exactly what her
11 comments would have been.

12 Q. Was it apparent to you that Ms. Arvielo was
13 upset at the meeting?

14 A. At the very end, absolutely.

15 Q. Were others upset at the meeting?

16 A. I think there was -- I think everybody was
17 somewhat upset and confused, because you go through
18 an entire year seeing numbers related to your
19 regional P and L or to, for Jan and I, to the
20 corporate P and L for Retail as being positive,
21 positive, positive, and all of a sudden you get to
22 the early weeks of 2019 and find out that that's --
23 not only did you not make any money, you lost money.

24 Q. Were any announcements made in the meeting
25 regarding the marketing budget?

1 A. It could have been part of the expenses
2 that were talked about. I don't really remember
3 much about the marketing budget.

4 Q. Do you recall any announcements regarding
5 pricing exceptions and the tolerances regarding
6 pricing exceptions?

7 A. Well, I think that was a great deal of the
8 communication around moving to a P and L, is that
9 when concessions were taken or people spent for
10 expenses within their region that they were just --
11 they were spending company money that they had no
12 accountability to. So concessions that they took,
13 things that they took, there was no risk to them, it
14 was all just an expense to the company.

15 Q. How long did this leadership meeting last?

16 A. It was probably close to half a day I would
17 think.

18 Q. Were there any smaller breakout meetings
19 held during the leadership meeting with individual
20 regional managers?

21 A. I don't believe in that first meeting there
22 was.

23 Q. Was there subsequently?

24 A. I think they did have a lot of meetings as
25 they were preparing and working through how they

1 were going to roll out the profit and loss plan to
2 the regionals. There were a lot of meetings with
3 individual regions. Every region is a little bit
4 different depending on the profitability of that
5 region. So there was a lot of discussion and debate
6 around how the P and L would be worked out for their
7 region, what kind of monies would be left in a bank,
8 if you will, to protect against loss, what
9 percentage of the profit they would earn. There was
10 a lot of discussions on that.

11 Q. Were you present at meetings with Ms.
12 Spearman and Ms. Preslo where Ms. Preslo expressed
13 that the changes would only last 90 days?

14 MR. PERLOWSKI: Object to the form;
15 foundation. You can answer, sir.

16 A. I don't know if I was in that particular
17 meeting or not. I know I was in on a lot of the
18 meetings, so -- that one doesn't necessarily ring a
19 bell, but -- I was in most of them.

20 Q. And I know I asked about Ms. Preslo. What
21 about Ms. Arvielo, were you ever present in meetings
22 where she told Ms. Spearman these changes are only
23 going to last 90 days?

24 MR. PERLOWSKI: Objection, foundation.
25 You can answer, sir.

1 A. A lot of times when Patty would meet with
2 some of the regionals, most of the time she would
3 meet with them independently -- not always but a lot
4 of times independently. The thought of it lasting
5 for 90 days was certainly not something that was
6 being discussed at the top of the house.

7 Q. In private meetings amongst you and Ms.
8 Preslo and Ms. Bunce and Ms. Arvielo?

9 A. The thought process was we were going to
10 move towards a P and L format and that was going to
11 be an ongoing format that would last.

12 Q. So you don't know what Ms. Preslo or Ms.
13 Arvielo might have told Gina outside of your
14 presence with respect to this only lasting for a
15 period of 90 days where the marketing budget was
16 taken away?

17 MR. PERLOWSKI: Objection; foundation.

18 You can answer, sir. And speculation. Sorry.

19 You can answer.

20 A. I don't remember... not to be definite, I
21 don't remember that. I mean not that it didn't; I
22 just don't -- I don't remember.

23 Q. You don't remember being present when those
24 conversations were held?

25 A. I don't.

1 Q. And did you testify earlier that Patty
2 would meet individually with the regional managers?

3 A. She would at times, yes.

4 Q. And do you know why she would do that?

5 MR. PERLOWSKI: Object to the form;
6 speculation. You can answer sir.

7 A. Mostly to try to be a calming effect more
8 than anything else. Patty was not confrontational
9 by nature, so it would have probably been more to
10 try to calm or comfort someone as they're going
11 through transition.

12 Q. You say calming. Was the reaction to these
13 announcements heated?

14 MR. PERLOWSKI: Object to the form;
15 foundation; speculation. You can answer, sir.

16 A. Yes, some of them were.

17 Q. You were present, so you saw reactions.
18 What were the reactions?

19 A. A lot of reactions to how the P and L
20 format would roll out. Once expenses were
21 accomplished, a lot of regionals wanted a higher
22 percentage of the profitability. So just a lot of
23 debate and discussion over, okay, we've met the
24 expenses, now what percentage of the profit do we
25 get, how much money are we going to have to leave in

1 to account for risk. There's always a lot of
2 discussion topics around how a P and L is going to
3 be laid out.

4 Q. After the leadership meeting was over did
5 the regional managers fly out to Tustin to meet with
6 you and Christy and Jan to come up with a solution
7 to what was announced -- to the announcements made
8 at the leadership meeting?

9 A. Yes.

10 Q. Tell me about that meeting.

11 A. A lot of it was just discussions on their
12 part, questioning again the loss. That came up
13 several times. And then just questions about if we
14 were going to move to a P and L format, and then a
15 lot of debate over the corporate allocation. That
16 number continued to change frequently during that
17 next 45 days.

18 Q. At that meeting did the regional managers
19 express concern to you and others present that their
20 marketing budget had been taken away?

21 A. Not all of them used the same -- the
22 marketing budget the same as the southeast region
23 did. But that marketing budget was a part of their
24 negotiation at the time of hire, so there was a lot
25 of concern at that point in time on why would that

1 be changing because it was a part of our hiring
2 agreement.

3 Q. Was that a significant piece of their
4 compensation in their hiring?

5 A. Yes.

6 MR. PERLOWSKI: Object to the form;
7 foundation.

8 Q. And at this meeting what was told to Ms.
9 Spearman and Ms. Allison about NAF taking away their
10 marketing budget?

11 A. It was going to be, I think, suspended
12 until they got the P and L portion worked out. And
13 I believe as the -- until the P and L was worked
14 out.

15 Q. Did they say what period of time that would
16 be?

17 A. That may have been the 90 days they were
18 talking about, thinking that the P and Ls would be
19 in place and ready to roll in that length of time.
20 I know that there was just some real pressure on the
21 new CFO to get those completed, rolled out, reviewed
22 and everybody's blessing on the direction of the
23 P and L for their particular region. So there was
24 -- 90 days would have been probably a suitable
25 period that they were talking about to get that

1 completed.

2 Q. And so did Ms. Spearman stay on with NAF
3 during this time period?

4 A. I believe Ms. Spearman was still a part of
5 NAF at the time I resigned.

6 Q. Who was the CFO that was hired?

7 A. I'm terrible with names. It was Scott
8 Frommert.

9 Q. And prior to hiring Scott Frommert there
10 was no -- was there a CFO at NAF?

11 A. No.

12 Q. Did you and Scott Frommert work together?

13 A. Quite a bit.

14 Q. Is Scott Frommert still employed at NAF?

15 A. No, he's not.

16 Q. Did he leave before you or after you?

17 A. He left after I did. And I really don't --
18 I don't know what the reason or terms of his
19 departure were because, like I said, he left several
20 months after I did.

21 Q. Did he ever tell you while he was employed
22 and working with you that he was having problems
23 coming up with a P and L?

24 A. I know he was having problems coming up
25 with a P and L. We worked through -- we worked

1 together on a lot of that. There was a lot of
2 debate early on on what would be fair, what would be
3 not fair. In all fairness to Scott, he was coming
4 into a company that he had no experience with any of
5 the people. I had worked with every regional --
6 every regional that was there was either directly
7 hired by me or I was involved with the hiring of
8 them. So it was -- I don't think it was easy on
9 Scott because he's being hired and instructed by
10 ownership to create something. And he did a good
11 job, but there was a lot of debate clearly from him
12 and I early on to come up with something that would
13 be fair.

14 Q. Did Jason O'Bradovich participate in
15 putting together the P and L?

16 A. I think he worked -- I think he was the
17 other side of the coin that worked with Scott and
18 Rick on things that were trying to get in place, and
19 then I was on the side probably working with Scott
20 on what was going to be distributed and given out to
21 the regionals. So mine was probably more of a
22 position from sales and Rick and Jason was more of a
23 position of what was the right thing to do for the
24 company, neither one being wrong. I just -- I
25 wasn't in most of the meetings with Jason, Rick and

1 Scott.

2 Q. Did Scott ever tell you he was having
3 trouble getting information he needed from Jason
4 O'Bradovich?

5 A. Yeah, he would make comments on that. As
6 time went on we had a good working relationship.
7 You don't always agree on how the math is adding up,
8 but we did have a good working relationship. And so
9 he would share at times that he had difficulty in
10 getting clear direction on what would be acceptable
11 and not acceptable.

12 Q. Clear direction from who?

13 A. From Rick and from -- from ownership. The
14 company is owned by Rick and Patty, so getting
15 direction from both of them and probably Jason's
16 commentary with it. He needed answers to certain
17 questions that would be formulated on what
18 tolerances are we going to allow the regionals to
19 control, how were we going to manage marketing
20 budgets as an example, concessions, how would that
21 play out. Because depending on the percentage of
22 the profit that was going to be generated and owned
23 by the regional versus the company, whatever portion
24 of that that's still owned by the company, what kind
25 of tolerances were they going to have in place for

1 their 50 percent and what were they going to allow
2 -- so there was just a lot of discussion back and
3 forth to come down to something that could be
4 determined reasonable. And a lot of what's
5 reasonable wasn't totally my call; it's what the
6 regionals were going to accept.

7 Q. Did Scott ever tell you about conversations
8 he would have with Rick Arvielo regarding problems
9 he was having trying to get the numbers from Scott
10 Frommert?

11 MR. PERLOWSKI: Object to the form;
12 foundation. You can answer.

13 A. I think that -- Scott and I had a good
14 working relationship, so if there was a particular
15 day where he felt he was having a hard time getting
16 answers to questions, he would probably comment on
17 it. I don't know that it was anything more than
18 just general conversation between two people that
19 were trying to get to the end result so we could
20 move forward with what we were hired to do, which is
21 continue to grow and build a company.

22 Q. When did the P and L model come into play?

23 A. I think it rolled out pretty much right
24 about the late spring of 2019.

25 Q. So that would have been a full year after

1 the leadership meeting where the announcements were
2 made regarding the profitability and the P and Ls;
3 is that correct?

4 MR. PERLOWSKI: Object to the form,
5 foundation. You can answer.

6 A. We still had a lot of meetings during that
7 first 75 days, first 90 days of 2019 because the
8 whole loss was realized early in 2019. And then
9 they're working on the P and L. So when I say it
10 rolled out probably late spring, that's probably
11 premature. I think they began to roll out what the
12 P and Ls would look like to the regionals through
13 kind of the second and third quarter of 2019. I
14 think there was test months on the P and L that
15 began probably in the fall of 2019, and I think they
16 all -- the P and Ls really went hard as they went
17 into 2020. But, again, that's kind of my memory of
18 the dates. My world continued to change through
19 that period of time, so -- I know that the P and Ls
20 were in full swing in 2020. But, again, I left at
21 the end of January.

22 Q. How did your world continue to change
23 during that time period?

24 A. Well, my contract that I was under in
25 2018 -- so I started in 2019 with that contract. It

1 changed. They changed my contract in like March of
2 2019, and then changed it again in July of 2019, and
3 then changed it again in January of 2020. Four
4 changes in a 12-month period was just more than I
5 was going to deal with.

6 Q. And each time they changed your contract
7 did they present it to you and ask you to sign it?

8 A. Yes, they presented it to me. It was done
9 in writing. They asked me to sign it. Most of my
10 compensation was paid to some degree in arrears, so
11 if you don't sign it, then it would determine how
12 you're going to get paid on your stuff going
13 forward. So even the very last one I received in
14 January I signed, but I still resigned even with the
15 signed contract. It's all an at-will contract,
16 so...

17 Q. Why was your contract changed so many
18 times?

19 MR. PERLOWSKI: Object to the form,
20 foundation, speculation. You can answer if you
21 can.

22 A. That's really a good question. I have my
23 personal feelings on it. I don't know that that is
24 -- they could also argue with it. But if you're
25 going to change somebody's compensation four times

1 in a 12-month period, then I would assume that they
2 believed that I held some fault in the loss. I'm
3 not preparing the financial statements, so if the
4 financial statements are prepared correctly you can
5 illustrate them correctly. I can only assume that
6 they believed that there was some fault in that.

7 The original structure of the comp that was
8 put in place I had a big role in and laid that out
9 and it was -- it worked very well. We grew very
10 rapidly. I would probably venture to say that for
11 -- for mortgage companies that were growing around
12 that '13, '14, '15, '16 year periods, some grew
13 faster through acquisition. But through pure
14 organic growth, I doubt if any -- I firmly believe
15 there was no company -- no mortgage company in
16 existence that grew faster organically than we did
17 during those years.

18 MR. PERLOWSKI: MaryBeth, when you get
19 to a natural stopping point, let me know. I
20 need to take a quick break.

21 MS. GIBSON: Now is fine. We can take
22 a 10-minute break. We'll go off the record,
23 Mr. Reed.

24 MR. PERLOWSKI: Thank you.

25 (Recess 3:11 p.m. - 3:21 p.m.)

1 BY MS. GIBSON:

2 Q. Mr. Reed, did you attend a meeting with
3 Scott Frommert in Atlanta in September of 2019?

4 A. I did.

5 Q. Who was present at that meeting?

6 A. It was Scott and myself and Kelly Allison,
7 Gina Spearman, and I think that was it. I don't
8 think Jan came on that trip. I don't remember. I
9 know Scott and I for sure. I don't remember -- Jan
10 didn't normally travel, so I don't think she came on
11 the trip. But she might have.

12 Q. Did you do anything to prepare for that
13 meeting?

14 A. Well, Scott was going to present the
15 P and L plan to Kelly and Gina for what he had come
16 up with for their P and L plan, which he did. And I
17 think it got a little heated during some of the
18 discussion. Anyway, I told them we needed to go
19 back and just work on it, kind of to diffuse the
20 deal. But that was the purpose of the meeting, I
21 believe, was to present the format for how their
22 P and L would work.

23 Q. Did you bring materials to the meeting to
24 give to Gina and Kelly?

25 A. Scott did, yes.

1 Q. And was there a Power Point presented?

2 A. I believe there was.

3 Q. Did you receive a copy of that from Mr.
4 Frommert?

5 A. I did.

6 Q. Would you still have a copy of that?

7 A. Probably not. I got rid of most everything
8 I had.

9 Q. When you resigned from NAF did you have a
10 company laptop that you turned back in?

11 A. I did.

12 Q. Is it possible it would have been on that
13 laptop?

14 A. Oh, I'm sure it would have been.

15 Q. Did you and Scott share various documents
16 related to the P and L model?

17 A. We did. Because the P and L model adjusted
18 and was -- there was a lot of variations and
19 differences for all of the different regions.

20 Q. At this meeting with yourself and Mr.
21 Frommert and Kelly and Gina, were comparisons made
22 to their overrides and their compensation and their
23 2016 agreement to the new P and L model?

24 A. I don't think Scott brought out anything
25 with -- well, let me think through that a minute.

1 He may have referred, but I don't think he brought
2 out any particular documents to their original
3 agreement; however, I do believe that they had
4 copies of their original agreements to kind of
5 compare with what was being rolled out to them in
6 the P and L. And I believe that there was kind of
7 ending discussion towards the end of the meetings
8 where Kelly and Gina would have their legal counsel
9 review -- and actually, thinking back on it, I think
10 they had representation there from their attorney in
11 that meeting.

12 Q. So when the meeting ended was there any
13 resolution with respect to the P and L model?

14 A. Not at that time.

15 Q. And do you recall what was going to happen
16 next?

17 A. Well, I think we went back to California
18 and presented at least the discussion points that
19 were important to Gina and Kelly. Scott probably --
20 I'm assuming Scott had meetings with Rick and Patty,
21 probably Christy, on accommodations or things they
22 were going to do for the P and L for Kelly and Gina.
23 We had some very good regions. And not to downplay
24 any of the regions, all of them did a good job with
25 profitability. But the region -- the southeast

1 region under Kelly and Gina was clearly the most
2 profitable region.

3 Q. And how would you determine profitability
4 from looking at the P and L?

5 A. Sure. Expense minus revenue, they were the
6 best.

7 Q. So ultimately NAF went to a P and L model
8 that was presented to Gina and Kelly. Was it
9 presented to all regional managers?

10 MR. PERLOWSKI: Object to the form;
11 foundation. You can answer.

12 A. It was clearly presented to all the
13 regionals. It varied by region, but it was
14 presented to all of them.

15 Q. Had you resigned before the March 1, 2020
16 amendment or Schedule 1 was presented to Ms.
17 Spearman?

18 A. Yes.

19 Q. Were you to be put on the same P and L
20 model as Ms. Spearman?

21 A. No. My deal changed dramatically in
22 January. So the final contract I received was a
23 base of X amount of dollars and then I could receive
24 25 percent of that base and a bonus if profitability
25 was achieved. And then I could get another 25

1 percent of that amount in a bonus if I increased the
2 sales force by 10 percent per month, which would
3 have been impossible for anyone on the planet to do.
4 It wasn't a question of the denomination; it was a
5 question of the stips that were absolutely
6 unattainable. So it would be just as easy for
7 somebody to say, look, we don't want you anymore
8 than to put something that ridiculous in front of
9 somebody.

10 Q. To your knowledge as the Executive VP that
11 Ms. Spearman reported to, was her contract ever
12 rewritten prior to the March 1, 2020 Schedule 1
13 P and L model?

14 MR. PERLOWSKI: Objection; form;
15 foundation.

16 BY MS. GREEN:

17 Q. You can answer.

18 A. I don't remember if it was. I don't
19 believe anything was altered to their original
20 contract until P and L deals started to roll out in
21 probably -- in reference to that March date you're
22 talking about.

23 Q. Did Ms. Spearman ever speak to you about
24 the fact that she wasn't receiving overrides as she
25 thought she was entitled to receive under her

1 November 2016 agreement?

2 A. I don't know that I had any -- I don't know
3 that she addressed that with me. I know that she
4 did have some conversations with Jan in regards to
5 that. We would all talk about different things.
6 Jan had a good relationship with the girls as well
7 as she did with most of the regionals. It would
8 just depend on what the needs were of the regional
9 on whether those discussion topics were more
10 centered to her or me.

11 Q. Did Jan ever tell you that Ms. Spearman
12 complained to her about not receiving all the
13 overrides she thought she should receive?

14 A. Jan and I talked a lot, and so I can't
15 necessarily remember if she did or didn't. But I'm
16 assuming she probably would have because we talked
17 through everything.

18 Q. So you're aware of Ms. Spearman reporting
19 that she believed she was not being paid the
20 overrides that she thought she was entitled to under
21 her 2016 contract; is that correct?

22 MR. PERLOWSKI: Could you please read
23 that question back?

24 (Reporter read requested portion.)

25 MR. PERLOWSKI: Objection; speculation.

1 You can answer, sir.

2 A. Jan and I would have discussed it. So I
3 would say, yes, I would have been aware that Gina
4 was not happy about her overrides.

5 Q. What was Jan's response to Ms. Spearman?

6 MR. PERLOWSKI: Object to the form;
7 speculation.

8 A. I don't remember.

9 Q. Did Jan ever speak to you about what she
10 was going to do about that?

11 A. I think she talked to -- I think she was
12 going to have discussions with Christy on it. I was
13 working a lot with Scott on the formatting of the
14 P and Ls and how that would really work and whether
15 certain parts were fair. So that part there where
16 Gina might have been talking, I'm assuming to Jan,
17 Jan was probably taking it to Christy. I would have
18 -- I would have known about the conversation. I
19 wouldn't have been directly involved with it.

20 Q. Did the Arvielos ever tell you that they
21 thought Gina and Kelly made too much money?

22 A. I would say that was a general feeling,
23 that they felt that most of the regionals made too
24 much money.

25 Q. Do you know whether Kelly and Gina's

1 marketing budget was removed from their P and L
2 model contract that was given to them in March of
3 2020?

4 A. Like I said, I wasn't there in March of
5 2020, so -- unless the marketing budget would have
6 been formatted to be inside the P and L and
7 illustrated correctly with the change, all of that
8 should have been done in writing. It was common for
9 any of these agreements, that when changes occurred
10 it was always done in writing. It was with me and
11 to my knowledge with any of the changes with any of
12 the regionals it was always done in writing.

13 Q. And when you say it was always done in
14 writing, does that mean it was presented and they
15 had to sign it?

16 MR. PERLOWSKI: Object to the form. You
17 can answer.

18 A. It had a requirement for their signature.
19 It doesn't mean that -- I can speak for mine.
20 Whether I signed it or not, I had one of two
21 choices, accept the terms of the agreement, signed
22 or unsigned, or leave.

23 Q. And so is that why you left after you were
24 presented with your January 2020 contract?

25 A. Correct.

1 Q. And so I guess the options are to either
2 accept the terms of the change or resign?

3 A. Right.

4 MR. PERLOWSKI: Object to the form,
5 speculation. You can answer.

6 BY MS. GIBSON:

7 Q. Going back to the 2019 P and Ls, do you
8 know who discovered the loss identified in the 2019
9 P and L?

10 MR. PERLOWSKI: Objection, foundation.
11 You can answer.

12 A. Who discovered the loss?

13 Q. Yes.

14 MR. PERLOWSKI: Same objection. You can
15 answer.

16 A. Obviously the loss was presented that we
17 lost money by Rick. So I'm assuming it was picked
18 up by Rick and Jason that there was a loss, not a
19 gain.

20 Q. Going back to the meetings, the leadership
21 meetings and then the meetings afterwards when the
22 regional managers flew out to Tustin to meet with
23 you and other officers, was any resolution made at
24 those meetings with respect to cuts to Gina and
25 Kelly's marketing budget?

1 MR. PERLOWSKI: Object to the form;
2 foundation. You can answer.

3 A. Not to my knowledge, at that meeting. That
4 meeting was centered around the fact that there was
5 -- that we did not make money in 2018 and that we
6 were going to move toward a P and L format for the
7 regionals instead of the basis point plan they were
8 on.

9 Q. When the regionals flew out there to meet
10 with you all did they tell you why they were coming
11 out there to meet with everyone?

12 A. It wasn't uncommon to bring the regionals
13 together for meetings, so I don't know if it was
14 illustrated to them as the specific reason other
15 than just a beginning-of-the-year meeting.

16 Q. I'm speaking about after the February 2019
17 leadership meeting where the regional managers got
18 together and flew out to Tustin to discuss the
19 issues with you all that were raised at the
20 leadership meeting, before they all flew out there
21 did they tell you and Christy and Jan why they were
22 coming?

23 A. Yeah. They wanted --

24 MR. PERLOWSKI: Object to the form;
25 speculation; foundation. You can answer.

1 A. They wanted to have a meeting with all of
2 us because they were concerned about impending
3 changes that were coming. They were concerned about
4 the fact that why did we not know that there was
5 losses in 2018, why did we not know about that
6 earlier, why did we not react to the losses earlier,
7 why did we get through the entire year of 2018 and
8 the losses surfaced early in '19. Why did we not
9 know about it earlier.

10 Q. Did any of the regional managers that flew
11 out to meet with you all resign after that trip?

12 A. No.

13 Q. Were representations made by anyone at that
14 meeting to regional managers to keep them to stay?

15 MR. PERLOWSKI: Object to the form;
16 foundation; speculation.

17 MS. GIBSON: Well, he was there. He can
18 testify to what he knows. It's not
19 speculation.

20 BY MS. GIBSON:

21 Q. Go ahead, Mr. Reed.

22 MR. PERLOWSKI: Same objection.

23 A. There was -- I don't know what commitments
24 or promises might have been made to the regionals
25 individually. There was a common message that we

1 were going to work towards a fair P and L plan for
2 all of the regionals and that they were going to
3 take into account their earnings that they had been
4 achieving and try to stay consistent with that in
5 the plan that was being put together.

6 Q. And was any time period expressed when this
7 new plan might be provided to the regional managers?

8 A. I think the original deal was they were
9 going to try to have it done within 30 days, which
10 was not realistic. I think the 90-day period was
11 more realistic for the time period it took to put it
12 all together, to have meetings with the different
13 regionals to review their plan. Some of that was --
14 most of that was done via phone. I do know that we
15 did fly out and meet with Gina and Kelly in person.

16 Q. So it didn't happen within 30 days or 90
17 days, did it?

18 MR. PERLOWSKI: Object to the form.

19 A. No, it did not.

20 BY MS. GIBSON:

21 Q. Do you know when Ms. Spearman resigned?

22 A. It was after I resigned. So I think I
23 heard that she had resigned sometime around March or
24 April of 2020.

25 Q. Was that after the P and L model was

1 presented to her?

2 A. Well, the P and L model would have been
3 presented in '19. I think it actually rolled -- it
4 might have rolled with some test months in '19, but
5 I think it rolled fully the first of the year, in
6 2020.

7 Q. I was actually referring to the written
8 schedule that embodied the P and L model that was
9 effective March 2020.

10 A. They all were given kind of their plan in
11 '19. Now there may have continued to be revisions
12 with some of the regionals. If there were
13 revisions -- some of the regions -- you're talking
14 about regions that are pretty complex that were
15 doing a lot of volume. There could have been
16 continual revisions to that P and L agreement well
17 into 2020. But, again, I left really at the end of
18 January. And kind of that last 30 days it was
19 pretty clear that I wasn't going to have a lot of
20 involvement in what was being rolled out. So it was
21 -- I can't speak to a lot of things that were really
22 being offered to Gina and Kelly or any of the
23 regionals certainly as they got very deep into 2020.

24 Q. So you went to the September 2019 meeting
25 in Atlanta with Kelly and Gina and Mr. Frommert,

1 correct?

2 A. Yes, that is correct.

3 Q. And the purpose of that was to come up with
4 an agreement to present to Ms. Spearman and Ms.
5 Allison; is that correct?

6 A. Yes. Scott had a plan put together. So
7 when we flew out to meet with Gina and Kelly he flew
8 out there with the purpose of presenting their plan
9 to them. And the plan that he presented was the
10 plan that he expected them to take. So there was
11 options to the P and L plan, whether it favored a
12 higher percentage of the profit or a lower
13 percentage of the profit with a little bit higher
14 basis point component. I think he believed that
15 they would clearly take the heavier profit
16 percentage of the P and L just because, again, they
17 were the most profitable region in New American. So
18 that was what he presented.

19 Q. Do you know when a formal contract
20 embodying that P and L model was presented to Ms.
21 Spearman?

22 A. There were so many revisions at that time.
23 I would think --

24 Q. If I tell you it was March 1, 2020, do you
25 have any reason to think that's incorrect?

1 A. No, I would have no reason to think that's
2 incorrect.

3 Q. Do you know why Ms. Spearman resigned?

4 A. Well, I wasn't there and so I obviously
5 wasn't talking to Gina when she resigned. But I do
6 know that there was -- I would be speculating at
7 that time. I'm just assuming she resigned because
8 of terms within the agreement that she didn't agree
9 with.

10 Q. After you resigned from NAF did you ever
11 speak with the Arvielos again?

12 A. No.

13 Q. Did you ever speak with Jason O'Bradovich?

14 A. No.

15 Q. Have you spoken with Scott Frommert?

16 A. Yes.

17 Q. When did you speak with him?

18 A. I've talked to him periodically probably
19 every few months after he resigned just on where he
20 went to work, how things were going, general
21 conversations, nothing really related to New
22 American other than just -- we kind of became
23 friends and so we've stayed in communication after
24 that point.

25 Q. Do you know if he was fired or if he

1 resigned?

2 A. I really don't know. He was under -- at
3 least what he told me, he was under kind of a strict
4 NDA. So I have no knowledge of why -- whether he
5 was either terminated or resigned or what the
6 reasoning for it was.

7 MS. GIBSON: I just want to take a
8 five-minute break. And I think we're almost
9 done, Mr. Reed.

10 MR. PERLOWSKI: I'm going to have a few
11 questions for Mr. Reed. Can we take 10 so I
12 can get my thoughts together as well?

13 MS. GIBSON: Sure, we can take 10.

14 MR. PERLOWSKI: And I'm not going to be
15 long.

16 (Recess 3:45 p.m. - 3:53 p.m.)

17 BY MS. GIBSON:

18 Q. Mr. Reed, were you ever shown what losses
19 comprised the corporate margin that made the
20 P and Ls show a loss in 2019?

21 A. Yes. They had a breakdown -- there was a
22 breakdown of what made up Corporate Margin 1, so you
23 had all the different expense categories that made
24 up Corporate Margin 1. And then when the losses
25 came in they had the different categories that were

1 associated with Corporate Margin 2. I didn't save
2 any of those P and L statements, so I couldn't by
3 memory go through it. But they were itemized as to
4 what the different line items were that would have
5 made up those two allocations for corporate margin.

6 Q. Do you have any recollection of what went
7 into those? Do you know if they were related to
8 NAF's mortgage business?

9 A. I don't believe so.

10 Q. I just want to make sure I understood your
11 answer because I was a little distracted. The
12 expenses in CM1 and CM2, I had asked you if they
13 were related to the mortgage business that NAF was
14 involved in.

15 A. Just to the Retail side. There was
16 certainly -- there's several different channels of
17 business for New American. At that time the primary
18 channels were the Call Center group and then Retail.
19 They had some other things they were branching into.
20 But none of those other line items were really a
21 part of the corporate margin, although there were
22 some things they were doing with kind of a connect
23 lead deal that they were going to drive to the
24 Retail sales force.

25 So there was a lot of different things in

1 the line items, and that was part of the debate that
2 I was involved with in trying to get down to a
3 reasonable number that was going to be in this
4 corporate allocation.

5 I do remember as we rolled into starting to
6 formulate that, I was told that combining the two
7 corporate margins that we would be able to stay at
8 1.9 million on an annual basis. And that went to
9 2.2 million and then 2.4 million and 2.6 million.
10 Just a moving target through the whole deal. So to
11 try to make sense out of the changes to the
12 different line items, it's pretty hard to make sense
13 out of a lot of that stuff. So it's just -- and
14 probably my debate on a lot of that stuff probably
15 just filtered to -- they decided it wasn't a good
16 time for me to stay around the company.

17 Q. Were you ever shown any reports or
18 documents that supported the expenses identified
19 under CM1 or CM2?

20 A. No.

21 MS. GIBSON: I don't have any further
22 questions subject to your recross. Thank you.

23 EXAMINATION

24 BY MR. PERLOWSKI:

25 Q. Mr. Reed, I have a few questions, sir.

1 Nice to meet you.

2 A. Nice to meet you, too. Thank you.

3 Q. Mr. Reed, understanding that you haven't
4 spoken directly with Ms. Spearman today, when was
5 the last time you talked to Ms. Spearman?

6 A. We haven't had very many conversations. I
7 think I spoke to Ms. Spearman probably the middle of
8 last year. She called. It was just a general call
9 to see how I liked the new company I was at. She
10 told me she was very pleased with the place that she
11 was working, wanted to know how things were working
12 for me. It was really nothing more than just kind
13 of a how-are-you-doing call. Nothing centered
14 around anything other than that.

15 Q. At anytime since you've left NAF, Mr. Reed,
16 has Ms. Spearman ever discussed her disputes with
17 NAF with you?

18 A. No.

19 Q. Prior to today, Mr. Reed, how many times
20 have you spoken with Ms. Spearman's counsel?

21 A. I think twice.

22 Q. Before I get into any specifics about those
23 discussions, Mr. Reed, can you tell me when those
24 conversations took place?

25 A. The exact date and time I really don't

1 know. I believe we've spoken twice, just general
2 questions that they had. But it was -- I couldn't
3 tell you the exact date.

4 Q. And, Mr. Reed, look, I understand we're
5 talking about things that happened some time ago.
6 I'm not going to ask you about -- it's certainly
7 fair you wouldn't remember an exact date. Do you
8 have an approximation as to when you -- let's just
9 say there's two conversations. When was the most
10 recent before today, approximately?

11 A. Within the last 30 days. Because I was
12 asked by Gina's legal counsel if I would be
13 available to depose, and I said I would be.

14 Q. How long did that conversation take place,
15 the one you just talked about within the last 30
16 days?

17 A. Ten minutes, 15 minutes maybe.

18 Q. Did you talk at all about Ms. Spearman's
19 contentions in this litigation?

20 MS. GIBSON: Objection. Go ahead.

21 A. I know in the first conversation that we
22 had I talked to MaryBeth, and she kind of outlined
23 the concerns of what Gina was suing over and some of
24 the things and general questions that at that time
25 was basically any contracts that ever went out to

1 any of the regionals, any contracts that -- any
2 changes to contracts, was that always done in
3 writing. And the answer is, yes, those were always
4 done in writing. And the contracts were very in
5 depth to cover all different things. There was no
6 verbal contracts that were ever given to my
7 knowledge.

8 Q. And you said that was the first
9 conversation that you had with Ms. Gibson?

10 A. Yes.

11 Q. Ms. Gibson knows I had to take this from
12 home today, and of course they're starting to cut
13 the grass outside, so sorry about that.

14 A. No worries.

15 Q. That first conversation, approximately when
16 did that conversation take place?

17 A. I would say within the last six months.

18 Q. And about how long did that conversation
19 last?

20 A. Probably spent about 30 minutes, maybe 40
21 minutes on the call.

22 Q. And the most -- the more recent
23 conversation, was that with Ms. Gibson or someone
24 else from Ms. Gibson's office?

25 A. No. The only person that I've talked to

1 with her office is Ms. Gibson.

2 Q. Thank you. Mr. Reed, do you have any
3 accounting or finance educational background?

4 A. Forty years in this business.

5 Q. Certainly understood. What is your
6 undergraduate degree?

7 A. I didn't go to college.

8 Q. Sorry about that.

9 A. Hasn't been a problem for me.

10 Q. I understood completely. I didn't mean to
11 presume. My apologies for presuming.

12 A. That's all right.

13 Q. Have you ever held a position with a
14 company in its finance department?

15 A. Well, I owned a company for 11 years and it
16 was -- it would have been considered a mortgage
17 banker. I have my own warehouse lines funded with
18 our own money, managed everything with investor
19 relations, secondary market. We didn't service any
20 of our own loans but certainly managed all of the
21 details of the business with the exception of
22 servicing.

23 Q. Do you have any formal accounting training
24 of any kind?

25 A. I'm not an accountant.

1 Q. Have you ever taken any kind of accounting
2 courses of any kind?

3 A. No. I've managed P and Ls for 40 years. I
4 think when it comes to -- no, I'm not an accountant.

5 Q. Mr. Reed, earlier when Ms. Gibson was
6 asking you questions you mentioned that you would
7 review the P and Ls typically every month. If you
8 could just explain to me how did you go about doing
9 that.

10 A. It came to me first on the P and L. So as
11 I would review the numbers, looking at the P and Ls,
12 you look at the different line items. It's pretty
13 simple when you're looking at the different line
14 items. If two and two adds up to four, it's great.
15 If two and two adds up to eight, it doesn't make
16 sense. So I am pretty good at math. So when I go
17 through all of those different things I can pick out
18 and find areas in a P and L that just do not make
19 sense. So that was -- those P and Ls normally came
20 to me first. I would find what I would find in the
21 P and Ls that did not seem to make sense, and then
22 when we got together for our formal review of the
23 P and Ls with Christy and Jan and Jason and the
24 group, that's when I would introduce all that stuff.
25 Most of it I could do from memory. They would go

1 back and make the changes that needed to be made,
2 understanding that there was flaws in the agreement
3 -- in the P and L, so those adjustments would be
4 made. So I didn't take the review of the P and L
5 lightly. I know you're not insinuating that. But I
6 would have clearly known if there was any part of
7 the P and L that should have been in there and was
8 not being counted. I would have known that. But if
9 it's not a part of the P and L, then I would have no
10 knowledge and could not count what was not visible.

11 Q. I totally understand your answer. Let me
12 maybe try to ask a clarifying question. I'm just
13 trying to understand what came to you. So, in other
14 words, when you received something, you said you
15 received it first. I'm trying to understand what it
16 was that you received.

17 A. The full Retail P and L, the full P and L.

18 Q. So you would receive the Retail P and L
19 only, not the P and L that involved non-Retail?

20 A. Correct. I wasn't involved with any -- my
21 exact title -- I think somebody asked it earlier --
22 was Executive Vice President of Retail Sales
23 nationwide. So anything that had to do with Retail
24 I was involved with.

25 Q. In what format did you typically, when you

1 received the Retail P and L each month, how would
2 you receive it?

3 A. It would come over electronically.

4 Q. Was it an Excel spreadsheet? Was it sort
5 of a link to access in Keblar? I'm just trying to
6 understand what you might have received.

7 A. A lot of that was put together in Keblar,
8 but it would come over in a P and L format that
9 would line out, like you would look at any P and L,
10 all of the expenses, all of the revenue, the volume
11 associated with that, units, fee income, everything
12 that was a part of it was in there.

13 Q. Who would typically send you that first
14 pass of the P and L that you were asked to review?

15 A. It would come from Jason or the lead person
16 on his team.

17 Q. That P and L that you reviewed, earlier
18 there was -- we talked -- there was testimony or
19 discussion there was CM1, CM2, CM3 were discussed.
20 What you received, what was your understanding of
21 what bucket that came from, CM1, CM2 or CM3?

22 MS. GIBSON: Objection; form and
23 foundation.

24 BY MR. PERLOWSKI:

25 Q. You can answer.

1 A. The P and L that I was receiving, I was
2 under the understanding that that was inclusive of
3 everything that would have affected Retail.

4 Q. So when you received it -- I'm just trying
5 to get your understanding, sir, no one else's, just
6 yours.

7 A. Got it.

8 Q. When you received the P and L, the Retail
9 P and L, did you have an understanding that certain
10 corporate expenses that might have been incurred on
11 behalf of Retail were embedded in that P and L that
12 you were receiving?

13 A. Should have been. The best way to answer
14 your question is the P and L that I was receiving I
15 was told was the actual P and L with all expenses
16 and all revenue associated for that month.

17 Q. Going to my question, it was your
18 understanding that that P and L encompassed all
19 Retail-related expenses; is that fair?

20 A. Correct.

21 Q. I'm trying to understand what your
22 understanding was, and I think we got that down.

23 Did you ever receive the non-Retail
24 P and Ls?

25 A. That would have dealt with other channels

1 within Broker Solutions? No.

2 Q. Other channels within NAF, so either
3 corporate or ILA instead of OLA?

4 A. ILA was a different channel. So there were
5 several channels of business inside Broker
6 Solutions, doing business as New American Funding.
7 I received everything associated with Retail.

8 Q. And Retail only?

9 A. Correct.

10 Q. Did you ever ask to look at any of the
11 other P and Ls in connection with your review of the
12 Retail P and Ls?

13 A. I wouldn't have asked that because it
14 didn't apply.

15 Q. I'm just asking if you ever did.

16 A. No.

17 Q. Mr. Reed, in terms of the loss that was
18 reported in early 2019 with respect to Retail, did
19 that number -- could that number have been more like
20 5.5 million dollars and not 25 million dollars?

21 MS. GIBSON: Objection, foundation.

22 A. It depends on who you ask.

23 BY MR. PERLOWSKI:

24 Q. Did you ever hear that number being a loss
25 of around 5.4 or 5.5 million dollars being reported

1 for Retail?

2 A. I heard two numbers, the one number was 25
3 million, the other number I said, well, we really
4 didn't make any money but we really didn't lose any
5 money. So the short answer is that the truth lies
6 somewhere between a 15 million dollar gain, a 25
7 million dollar loss or break even. Those were the
8 three numbers I was given.

9 Q. Who gave you the 25 million dollar number?

10 A. That came out of Rick and Jason.

11 Q. Who gave you the break even number, the
12 approximately break even number?

13 A. Christy.

14 Q. Mr. Reed, were you at all involved in the
15 preparation of schedules for regional managers?

16 A. You're going to have to qualify what you
17 mean.

18 Q. Sure. So are you familiar, just generally
19 speaking, with NAF's Regional Manager Agreement?

20 A. Yes.

21 Q. Are you aware that that Regional Manager
22 Agreement has certain schedules associated with it?

23 A. Yes.

24 Q. Were you typically involved in the
25 preparation of those schedules?

1 A. No.

2 Q. Were you typically involved -- I'm just
3 going to ask you a few questions understanding,
4 based on your last answer, I probably know what the
5 answer is, but I'm trying to create a record.

6 Were you involved in the preparation of
7 Schedule 1s for regional managers?

8 A. I wasn't involved in working -- Jan and
9 Legal worked on the preparation of the schedules.
10 Would I have had an understanding of them after I
11 read them, yes. But I wasn't involved in the
12 preparation, no.

13 Q. So is it fair to say that you were not
14 involved in the distribution of amended schedules
15 during a particular regional manager's employment?

16 A. I wasn't involved in the preparation of the
17 agreements. The review of the agreements I would
18 have had knowledge of.

19 Q. Would you have been involved in the
20 distribution of any amended schedules to a regional
21 manager? In other words, the amended schedule is
22 prepared. It's been delivered. Would you have been
23 involved in that process?

24 A. I don't think it would have been sent by
25 me, no.

1 Q. Ms. Gibson asked you some questions about
2 the September 2019 meeting in Atlanta that you and
3 Mr. Frommert attended on behalf of NAF.

4 A. Yes.

5 Q. What is your recollection, in terms of when
6 the meeting ended, what was your recollection as to
7 what you and/or Mr. Frommert told Ms. Spearman about
8 what would be happening next?

9 A. Well, towards the end of the meeting it got
10 a little heated between Gina and Kelly and Scott.
11 And I think I had offered some comments that we
12 would take the information back, process the
13 information, talk to the people. We diffused that
14 and went back. But it got a little heated at the
15 end. All I can give you is my honest assessment of
16 it. I think it would have gotten heated on the side
17 of Gina and Kelly because there was a lot of changes
18 that were happening and a lot of things that were
19 clearly changing to their original agreements. And
20 so that creates some anxiety. And Scott, being new
21 to the organization, trained to do the right thing
22 for the people that hired him and trying to do a
23 really good job to put together a P and L plan that
24 was suitable to all sides, I think his intent was in
25 the right area. But it did not come across well in

1 the meeting. So we went back to work on the things
2 that needed to be polished up.

3 Q. In terms of what -- as best as you can
4 remember, what message was delivered to Ms. Spearman
5 at the end of the meeting about what was going to
6 happen next?

7 MS. GIBSON: Objection; form and
8 foundation.

9 BY MR. PERLOWSKI:

10 Q. Let me revise that question. What, if
11 anything, do you remember you saying to Ms. Spearman
12 and Ms. Allison about what was going to happen next
13 at the end of the September 19 meeting?

14 A. Well, I clearly thanked them for the
15 opportunity to come out and meet with them. I had a
16 great deal of respect for both of them, and still
17 do. They ran a great shop. And so my words to them
18 at that time would be let's go back, sit down with
19 obviously -- Rick and Patty own the company, so sit
20 down with the powers that be, look at what's being
21 presented, try to polish this up and come back with
22 something that's favorable or agreeable to all
23 sides.

24 So really, just thinking back, I remember
25 very clearly that it was -- it got a little heated

1 there at the end. All I really wanted to do at the
2 end is -- you can imagine at that particular time
3 the last thing that would have ever occurred to me
4 is that I wouldn't be working for New American
5 Funding. And I certainly didn't want to lose, in my
6 opinion, arguably the best region in the company.
7 So it was my sincere desire to try to figure out
8 what we needed to put in place that was going to be
9 something that was acceptable to ownership,
10 leadership and something that was going to be
11 acceptable to Kelly and Gina.

12 It's not healthy to watch any group -- and
13 I actually, to be honest with you, we did attend
14 like meetings with the St. Louis, the Midwest
15 manager. I think we had a phone call with the
16 Colorado regional manager. So I had the same
17 passion towards all of them. I was very close to
18 them. The Colorado manager worked for me. We owned
19 a company together. He's my brother -- I've known
20 him since he was 12 years old.

21 The gentleman that runs Nevada, I was
22 instrumental in hiring him. I'm still very close to
23 him. The guy that runs the Midwest worked for me at
24 Countrywide. These weren't relationships that were
25 short term. And so as we tried to put these things

1 together, you want to do the right thing for the
2 company that you serve and you also want to do the
3 right thing for the people that you've worked so
4 hard to hire and retain. I don't know how to say
5 that any different than that.

6 Q. Thank you. I appreciate it. Do you
7 remember what Mr. Frommert may have -- in terms of
8 what message Mr. Frommert may have delivered, if
9 any, at the end of the September 19 meeting?

10 A. The one out there in Atlanta?

11 Q. Yes.

12 A. He was pretty direct. I know Scott had
13 worked really hard to try to put together what he
14 thought was a fair plan. And probably in his
15 passion to the amount of work that he had put into
16 the plan, felt angered that it wasn't being received
17 more favorably. And that wasn't the right position
18 to take at that time. But I do think it centered
19 around the fact that he had worked hard on it and he
20 felt he had come up with something fair and it
21 wasn't being received very well.

22 Q. From your impression of Mr. Frommert, do
23 you believe that he was working hard to put together
24 a plan that he thought was fair?

25 A. I do. It's obvious he had guidelines that

1 he was under that came directly from ownership. I
2 wasn't a part of all the directives that he
3 received. But I do know with a lot of the work I
4 did with him on everybody's P and L that he really
5 did want to work to something that was going to be
6 acceptable and fair to both sides.

7 Q. I'm asking -- the next couple of questions
8 I'm just asking about your impression. Was it your
9 impression that Ms. Allison was receptive to go to a
10 P and L model as opposed to a basis points model?

11 A. I think Kelly -- I think Ms. Allison, she
12 had worked under a P and L model for years, so a
13 P and L was not foreign to her. The idea of being
14 on a P and L plan would not have been unacceptable
15 to her. The terms of the P and L plan was certainly
16 debatable.

17 Q. Was it your impression as to whether Ms.
18 Spearman was receptive to going to a P and L model
19 from a basis points model?

20 A. Gina and Kelly talked a great deal. Gina
21 always -- she was always very polite, very reserved.
22 She didn't -- I don't want to say that she wouldn't
23 express her side. She would. But it wasn't as
24 direct often as Kelly would be.

25 Q. Mr. Reed, have you given any -- I'm not

1 talking about the deposition today, but have you
2 given any form of signed statement in this matter?

3 A. I have not.

4 MR. PERLOWSKI: I don't have any further
5 questions, MaryBeth.

6 MS. GIBSON: Thank you for your time,
7 Mr. Reed. I appreciate it.

8 THE WITNESS: You're welcome.

9 MR. PERLOWSKI: Mr. Reed, again, thank
10 you very much for your cooperation today. We
11 certainly appreciate it. Have a great weekend.

12 THE WITNESS: You, too. Thanks so much.
13 (Signature reserved.)

14 (Deposition concluded at 4:25 p.m.)
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1 CERTIFICATE

2 STATE OF GEORGIA:

3 COUNTY OF FULTON:

4 I hereby certify that the foregoing
5 transcript was taken down, as stated in the caption,
6 and the colloquies, questions and answers were
7 reduced to typewriting under my direction; that the
8 transcript is a true and correct record of the
9 evidence given upon said proceeding.

10 I further certify that I am not a relative or
11 employee or attorney of any party, nor am I
12 financially interested in the outcome of this action.

13 I have no relationship of interest in this
14 matter which would disqualify me from maintaining my
15 obligation of impartiality in compliance with the
16 Code of Professional Ethics.

17 I have no direct contract with any party in
18 this action and my compensation is based solely on
19 the terms of my subcontractor agreement.

20 Nothing in the arrangements made for this
21 proceeding impacts my absolute commitment to serve
22 all parties as an impartial officer of the court.

23 Th:  24

25 _____
Lucy C. Rateau, RPR, CCR 2766

1 To: Jon Reed

2 Re: Signature of Deponent Jon Reed

3 Date Errata due back at our offices: 30 days

4
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I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

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___ The following changes are noted:

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18 DEPONENT'S SIGNATURE

19 Sworn to and subscribed before me this ____ day of

20 _____, ____.

21 _____

22 _____

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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